

PUBLIC SANCTIONS

FY 2005

The following are public sanctions (reproduced in their entirety) which were issued by the Commission during fiscal year 2005. The public records for these cases are available for inspection at the Commission's offices located at 300 W. 15th Street, Suite 415, Austin, Texas.



BEFORE THE

STATE COMMISSION ON JUDICIAL CONDUCT

CJC No. 04-0360-MU

PUBLIC REPRIMAND

HONORABLE KEN REILLY
PRESIDING MUNICIPAL COURT JUDGE
MONTGOMERY, MONTGOMERY COUNTY, TEXAS

During its regularly scheduled meeting in Austin, Texas, on October 13-15, 2004, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable Ken Reilly, Presiding Municipal Court Judge, Montgomery, Montgomery County, Texas. Judge Reilly was advised by letter of the Commission's concerns and provided written responses. Judge Reilly appeared before the Commission on October 14, 2004, and gave testimony. After considering the evidence before it, the Commission entered the following Findings and Conclusions:

FINDINGS OF FACT

1. At all times relevant hereto, the Honorable Ken Reilly was Presiding Judge of the Municipal Court of Montgomery, Montgomery County, Texas.

2. Judge Reilly, an attorney, serves as a municipal court judge on the average of one-half day per month. He is paid the nominal sum of \$1.00 per year for his service as judge.
3. Judge Reilly's primary occupation is that of a professional public speaker, who conducts training seminars in the area of environmental law.
4. Judge Reilly's average income exceeds \$84,000 per year from his various seminar productions and public speaking engagements.
5. Judge Reilly's website promotes his seminar business with several references to his judicial position, including promotional statements such as, "Bring 'The Judge' to your next meeting as a Keynoter."
6. In his testimony before the Commission, Judge Reilly acknowledged that he is responsible for the content of all promotional information about his business enterprises, most of which appears on the internet.
7. In June 2000, the Commission considered a similar complaint concerning Judge Reilly's use of his judicial title to promote his training seminars. The Commission dismissed that complaint based on Judge Reilly's corrective action and his representation that he would eliminate all such references that tended to exploit his judicial office. However, the Commission advised Judge Reilly that he could continue to use an honorary title when providing biographical information about himself and his service as a judge.
8. During the period following his June 2000 appearance before the Commission, numerous gratuitous references to the "Judge" began to reappear in promotional materials advertising Judge Reilly's training seminars and public speaking business.

RELEVANT STANDARDS

1. Article V, Section 1-a(6)A of the Texas Constitution provides that any Texas justice or judge may be disciplined for willful or persistent conduct that casts public discredit upon the judiciary.
2. Canon 2B of the Texas Code of Judicial Conduct states, in pertinent part: "A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others. . . ."
3. Canon 4D(1) of the Texas Code of Judicial Conduct states, in pertinent part: "A judge shall refrain from financial and business dealings that . . . exploit his or her judicial position"

CONCLUSION

The Commission concludes from the facts and evidence presented that Judge Reilly exploited his position as a judge to further his private business interests in violation of Canons 2B and 4D(1) of the Texas Code of Judicial Conduct. Further, the Commission concludes that by failing to follow through with his previous representations

to the Commission that he would discontinue the gratuitous use of his judicial title in promotional materials concerning his training seminar and public speaking business, Judge Reilly has engaged in willful or persistent conduct that cast public discredit upon the judiciary in violation of Article V, Section 1-a(6)A of the Texas Constitution.

In condemnation of the conduct described above that violated Article V, Section 1-a(6)A of the Texas Constitution, and Canons 2B and 4D(1) of the Texas Code of Judicial Conduct, it is the Commission's decision to issue a **PUBLIC REPRIMAND** to the Honorable Ken Reilly, Presiding Judge of the Municipal Court of Montgomery, Montgomery County, Texas.

Pursuant to the authority contained in Article V, Section 1-a(8) of the Texas Constitution, it is ordered that the conduct described above is made the subject of a **PUBLIC REPRIMAND** by the State Commission on Judicial Conduct.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this ____2nd____ day of November, 2004.

ORIGINAL SIGNED BY

Honorable Joseph B. Morris, Chair
State Commission on Judicial Conduct



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

CJC Nos. 04-0513-JP AND 04-0514-JP

**PUBLIC REPRIMAND
AND
ORDER OF ADDITIONAL EDUCATION**

**HONORABLE SANTOS BENAVIDES
JUSTICE OF THE PEACE, PRECINCT 2
LAREDO, WEBB COUNTY, TEXAS**

During its meeting in Austin, Texas, on October 13-15, 2004, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable Santos Benavides, Justice of the Peace, Precinct 2, Laredo, Webb County, Texas. Judge Benavides was advised by letter of the Commission's concerns and provided a written response. Judge Benavides appeared with counsel before the Commission on October 13, 2004, and gave testimony. After considering the evidence before it, the Commission entered the following Findings and Conclusions:

FINDINGS OF FACT

1. At all times relevant hereto, the Honorable Santos Benavides was Justice of the Peace, Precinct 2, Laredo, Webb County, Texas.
2. On or about January 15, 2004, six individuals were arrested and taken into custody for the alleged assault of Officer Jorge Luna, Jr., a Laredo police officer. One of the individuals, Adrian Rodriguez, was charged with aggravated assault, and three related offenses, in connection with the incident.
3. On the same day, Judge Benavides, who was in the hospital, received a telephone call from his court clerk advising the judge that Rodriguez's father was at the judge's office requesting that his son be released from jail.
4. Judge Benavides had been acquainted with Rodriguez's father for "more than 25 years."
5. Judge Benavides testified that although he had been taking pain medication at the time, he nevertheless called the jail, spoke to Rodriguez personally concerning the

- incident in question, and then ordered that Rodriguez be released on a personal recognizance bond.
6. Judge Benavides further testified that he ordered Rodriguez's release despite his knowledge of Rodriguez's criminal history, including Rodriguez's felony probation status at the time of his arrest.
 7. Judge Benavides added that he felt justified in "bend[ing] the law," due to his relationship with Rodriguez's father.
 8. Rodriguez's release from jail on a personal recognizance bond generated a great deal of negative media attention directed against Judge Benavides.
 9. On February 2, 2004, Judge Benavides called a press conference to explain his actions. In his comments to the media, Judge Benavides stated several times that he ordered Rodriguez's release because he feared for his own "safety and security."
 10. In his testimony before the Commission, the judge stated that his comments to the media about the case were "inappropriate," and did not accurately reflect what he was trying to say.
 11. Judge Benavides also testified that he told the media he acted out of fear for his own safety because he was on medication and was afraid that any complications from his recent surgery might put his life at risk.
 12. Judge Benavides further testified that a previous heart condition had caused him to have memory lapses, which may have prevented him from recalling important details about the incident regarding the release of Rodriguez.

RELEVANT STANDARDS

1. Article V, Section 1-a(6)A of the Texas Constitution provides that any Texas justice or judge may be disciplined for willful or persistent conduct that casts public discredit upon the judiciary.
2. Canon 2A of the Texas Code of Judicial Conduct states, in pertinent part: "A judge shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."
3. Canon 2B of the Texas Code of Judicial Conduct states, in pertinent part: "A judge shall not allow any relationship to influence judicial conduct or judgment."
4. Canon 3B(2) of the Texas Code of Judicial Conduct states, in pertinent part: "A judge shall maintain professional competence in [the law.] A judge shall not be swayed by partisan interests, public clamor, or fear of criticism."
5. Art. 15.17(a), Texas Code of Criminal Procedure, provides that a person who is arrested shall be taken before a magistrate, "either in person or by closed circuit television."

CONCLUSION

The Commission concludes from the facts and evidence presented that Judge Benavides failed to comply with the law and failed to maintain professional competence

in the law when he released Rodriguez on a personal recognizance bond over the telephone, in violation of Art. 15.17(a) of the Texas Code of Criminal Procedure, and Canons 2A and 3B(2) of the Texas Code of Judicial Conduct. The Commission further concludes that Judge Benavides' conduct and judgment was improperly influenced by his relationship with Rodriguez's father, in violation of Canon 2B of the Texas Code of Judicial Conduct. Additionally, the Commission concludes that Judge Benavides acted out of fear for his own safety, in violation of Canon 3B(2) of the Texas Code of Judicial Conduct. Finally, the Commission concludes that Judge Benavides engaged in willful conduct that cast public discredit upon the judiciary in violation of Article V, Section 1-a(6)A of the Texas Constitution.

In condemnation of the conduct described above that violated Article V, Section 1-a(6)A of the Texas Constitution, Canons 2A, 2B, and 3B(2) of the Texas Code of Judicial Conduct, it is the Commission's decision to issue a **PUBLIC REPRIMAND AND ORDER OF ADDITIONAL EDUCATION** to the Honorable Santos Benavides, Justice of the Peace, Precinct 2, Laredo, Webb County, Texas.

Pursuant to the order, Judge Benavides must obtain **ten (10) hours** of instruction in addition to his required judicial education. In particular, the Commission desires that Judge Benavides:

- Attend any one of the two (2) hour courses on magistration offered by the Texas Justice Court Training Center; and
- Receive eight (8) hours of instruction with a mentor judge in the area of magistration, including the setting of bonds and all applicable Texas Code of Criminal Procedure provisions relating to this area of the law.

Pursuant to the authority contained in §33.036 of the Texas Government Code, the Commission authorizes the disclosure of certain information relating to this matter to the Texas Justice Court Training Center to the extent necessary to enable that entity to assign the appropriate mentor for Judge Benavides in this case.

Judge Benavides is hereby directed to complete the two-hour course on magistration on or before **January 28, 2005**. It is Judge Benavides' responsibility to contact the Texas Justice Court Training Center and schedule the additional education. Upon the completion of this training, Judge Benavides is hereby directed to provide documentation from the Texas Justice Court Training Center certifying his timely completion of the additional education.

Judge Benavides shall complete the additional eight hours of instruction recited above within **ninety (90) days** from the date of written notification of the assignment of a mentor. It is Judge Benavides' responsibility to contact the assigned mentor and schedule the additional education.

Upon the completion of the ten (10) hours of instruction described herein, Judge Benavides shall sign and return the Respondent Judge Survey indicating compliance with this Order. Failure to complete, or report the completion of, the required additional education in a timely manner may result in further Commission action.

Pursuant to the authority contained in Article V, Section 1-a(8) of the Texas Constitution, it is ordered that the actions described above be made the subject of a **PUBLIC REPRIMAND AND ORDER OF ADDITIONAL EDUCATION** by the Commission.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this ____2nd____ day of November, 2004.

ORIGINAL SIGNED BY

Honorable Joseph B. Morris, Chair
State Commission on Judicial Conduct



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

CJC No. 04-0435-CO

**PUBLIC ADMONITION
AND
ORDER OF ADDITIONAL EDUCATION**

**HONORABLE EDDIE J. VOGT
KENDALL COUNTY JUDGE
BOERNE, KENDALL COUNTY, TEXAS**

During its meeting in Austin, Texas, on October 13-15, 2004, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable Eddie J. Vogt, County Judge, Boerne, Kendall County, Texas. Judge Vogt was advised by letter of the Commission's concerns and provided written responses. Judge Vogt appeared before the Commission on October 14, 2004, and gave testimony. After considering the evidence before it, the Commission entered the following Findings and Conclusions:

FINDINGS OF FACT

1. At all times relevant hereto, the Honorable Eddie J. Vogt was County Judge in Boerne, Kendall County, Texas.
2. Since assuming the bench as the Kendall County Judge on January 2, 2003, Judge Vogt has performed numerous judicial functions, including acting as a magistrate and performing weddings.
3. On May 29, 2003 and April 13, 2004, Judge Vogt filed a document entitled *Statutory Judicial Education Exemption Affidavit* with the Texas Association of Counties (TAC). Although called an "Affidavit," the document is neither sworn to nor verified.

4. The sole purpose of such document is to obtain an exemption from the requirement to obtain judicial education each year.
5. In each document, Judge Vogt claimed that his functions as County Judge were completely non-judicial and that he did not and would not perform any judicial functions.
6. As a result of this claim, TAC granted Judge Vogt an exemption from the requirement to obtain judicial education in fiscal years 2003 and 2004, allowing Judge Vogt to avoid any judicial training since assuming the bench as County Judge.
7. In his written response to the Commission's inquiry, Judge Vogt again asserted that he performed no judicial functions and, therefore, was not required to comply with the Texas Code of Judicial Conduct. In the same response, Judge Vogt acknowledged that he performed magistrations at the Kendall County Jail, but insisted that magistrations were not a judicial function.
8. After being placed on notice by the Commission's inquiry into this complaint that magistrations were judicial functions, Judge Vogt contacted TAC for clarification. Although officials at TAC confirmed that his duties as a magistrate were a judicial function, Judge Vogt remained unconvinced that he was performing a judicial function by acting as a magistrate or by performing weddings.
9. In his testimony before the Commission, Judge Vogt acknowledged that while he served as a justice of the peace, he performed magistrations at the Kendall County Jail and performed weddings.
10. Judge Vogt further testified that when he served as a justice of the peace, he attended judicial education programs each year as required by law.
11. Throughout his testimony before the Commission, Judge Vogt demonstrated a lack of professional competence in the law regarding whether his acting as a magistrate and performing weddings were judicial functions.

RELEVANT STANDARDS

1. Canon 2A of the Texas Code of Judicial Conduct states, in pertinent part: "A judge shall comply with the law"
2. Canon 3B(2) of the Texas Code of Judicial Conduct states, in pertinent part: "A judge shall . . . maintain professional competence in [the law]."

CONCLUSION

The Commission concludes from the facts and evidence presented that by failing to recognize or accept the fact that he performs a judicial function when he magistrates inmates and performs weddings, Judge Vogt has not maintained professional competence in the law. By clinging to the untenable position that he has not been performing judicial functions, Judge Vogt has failed to comply with the law requiring judges to obtain judicial education each year. Because continuing judicial education serves an important

purpose in terms of enhancing public confidence in the integrity, independence, and impartiality of a competent judiciary, it would be counterproductive for a judge to attempt to thwart this intended purpose by taking steps calculated to avoid having to obtain such education. The Commission concludes that Judge Vogt's actions in this case were willful and persistent violations of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct.

In condemnation of the conduct described above that violated Canons 2A and 3B(2) of the Code of Judicial Conduct, it is the Commission's decision to issue a **PUBLIC ADMONITION AND ORDER OF ADDITIONAL EDUCATION** to the Honorable Eddie J. Vogt, County Judge, Boerne, Kendall County, Texas.

Pursuant to this Order, Judge Vogt must complete sixteen (16) hours of judicial education on or before **December 31, 2004**. It is Judge Vogt's responsibility to contact the Texas Association of Counties and schedule the education.

Upon the completion of this training, Judge Vogt is hereby directed to provide documentation from the Texas Association of Counties certifying his completion of the education. In addition, Judge Vogt shall sign and return the Respondent Judge Survey indicating compliance with this Order. These records shall be delivered to the Commission no later than **January 10, 2005**.

Failure to complete the required education and comply with the terms of this Order in a timely manner shall constitute a failure to cooperate with the Commission and may result in further Commission action.

Pursuant to the authority contained in Article V, Section 1-a(8) of the Texas Constitution, it is ordered that the conduct described above is made the subject of a **PUBLIC ADMONITION AND ORDER OF ADDITIONAL EDUCATION** by the State Commission on Judicial Conduct.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this _____ day of November, 2004.

ORIGINAL SIGNED BY

Honorable Joseph B. Morris, Chair
State Commission on Judicial Conduct



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

CJC No. 04-0793-JP

PUBLIC WARNING

**HONORABLE EDDIE J. VOGT
FORMER JUSTICE OF THE PEACE, PRECINCT 1
BOERNE, KENDALL COUNTY, TEXAS**

During its meeting in Austin, Texas, on October 13-15, 2004, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable Eddie J. Vogt, Former Justice of the Peace, Precinct 1, Boerne, Kendall County, Texas. Judge Vogt was advised by letter of the Commission's concerns and provided written responses. Judge Vogt appeared before the Commission on October 14, 2004, and gave testimony. After considering the evidence before it, the Commission entered the following Findings and Conclusions:

FINDINGS OF FACT

1. At all times relevant hereto, the Honorable Eddie J. Vogt was Justice of the Peace for Precinct 1 in Boerne, Kendall County, Texas.
2. In March 2002, Judge Vogt won the primary election for the office of Kendall County Judge. He was unopposed in the November 2002 general election.
3. Ruth Ann Lucchelli owned property in Kendall County adjacent to that of Dennis Lempar. At the time of the incident in question, Lucchelli and Lempar were involved in a well-known dispute over the boundary line dividing their properties.
4. Judge Vogt, a personal friend of Lucchelli, was aware of the on-going boundary dispute between Lucchelli and Lempar.
5. On the morning of September 13, 2002, Judge Vogt came to Lucchelli's home to watch the removal of a fence and old automobiles owned by Dennis Lempar, all of which Lucchelli claimed were located on her side of the property line.

6. Also present to observe this activity was Lucchelli's friend and attorney, Russell Busby.
7. Busby had won the March 2002 primary election for the position of Kendall County Commissioner and, like Judge Vogt, was unopposed in the November 2002 general election.
8. With Judge Vogt and her attorney present, Lucchelli planned to build a new fence based on the property line contained on her survey. To accomplish this task, Lucchelli employed a fence crew to use a "bobcat" to push the vehicles onto what she believed was Lempar's property.
9. Sometime after Judge Vogt's arrival, a physical altercation ensued between Busby, and Kenneth Lempar, Dennis Lempar's brother, over the removal of Lempar's fence and automobiles.
10. Judge Vogt witnessed the altercation, but took no action regarding the combatants.
11. The Kendall County Sheriff's department was dispatched to investigate the disturbance, but no arrests were made.
12. An Austin attorney retained by County officials to conduct an independent investigation into the incident concluded that Judge Vogt's "presence at the scene of the altercation further complicated an already difficult situation" and may have "contributed to the air [sic] of impropriety surrounding the incident."
13. In his appearance before the Commission, the judge explained that he was present at the scene to "socialize" and to meet with a fence crew in order to make sure Lucchelli was "getting a good deal."

RELEVANT STANDARD

Canon 2B of the Texas Code of Judicial Conduct states, in pertinent part: "A judge shall not allow any relationship to influence judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge."

CONCLUSION

The Commission concludes from the facts and evidence presented that by going to Lucchelli's property to oversee the removal of Lempar's automobiles and the placement of a new fence on a disputed boundary line, Judge Vogt did lend the prestige of his judicial office to further the private interests of his friend, in violation of Canon 2B of the Texas Code of Judicial Conduct. The Commission further concludes that Judge Vogt's failure to take appropriate action as a magistrate upon witnessing a physical altercation between Busby and Lempar demonstrated that Judge Vogt allowed his relationship with Busby to influence his judicial conduct or judgment and allowed Busby, in turn, to convey the impression that he was in a special position to influence the judge, also in violation of Canon 2B of the Texas Code of Judicial Conduct.

In condemnation of the conduct described above that violated Canon 2B of the Texas Code of Judicial Conduct, it is the Commission's decision to issue a **PUBLIC WARNING** to the Honorable Eddie J. Vogt, Former Justice of the Peace, Precinct 1, Boerne, Kendall County, Texas.

Pursuant to the authority contained in Article V, Section 1-a(8) of the Texas Constitution, it is ordered that the conduct described above is made the subject of a **PUBLIC WARNING** by the State Commission on Judicial Conduct.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this ____2nd____ day of November, 2004.

ORIGINAL SIGNED BY

Honorable Joseph B. Morris, Chair
State Commission on Judicial Conduct



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

CJC No. 04-0058-DI

PUBLIC REPRIMAND

**HONORABLE LUIS AGUILAR
120TH DISTRICT COURT
EL PASO, EL PASO COUNTY, TEXAS**

During its meeting in Austin, Texas on December 8-10, 2004, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable Luis Aguilar, 120th District Court, El Paso, El Paso County, Texas. Judge Aguilar was advised by letter of the Commission's concerns and provided written responses. Judge Aguilar appeared with counsel before the Commission on August 12, 2004, and gave testimony. After considering the evidence before it, the Commission entered the following Findings and Conclusion:

FINDINGS OF FACT

1. At all times relevant hereto, the Honorable Luis Aguilar was Judge of the 120th District Court in El Paso, El Paso County, Texas.
2. Jo Ann Levison was employed as the Court Coordinator for the 120th District Court from January 1, 2003 through July 3, 2003. Prior to her employment as Judge Aguilar's Court Coordinator, Levison had worked for the judge in his private law practice.
3. According to sworn affidavits from Levison and the judge's former Court Reporter, Judge Aguilar made derogatory remarks and gestures of a sexual nature about women, including female judges, prosecutors, probation officers, and others with whom the judge deals in his official capacity. Most of these comments were made in the judge's chambers or offices, but in the presence of court staff.

4. According to witnesses, Judge Aguilar used such terms as, “hot tamale,” “fucking bitch,” “fat pig,” “fucking lazy,” “stupid bitch,” and the like to refer to women. He also referred to one female judge as being “in heat.”
5. On more than one occasion, witnesses observed Judge Aguilar lose his temper and scream at female prosecutors, attorneys, and court staff in front of other people.
6. On or about March 28, 2003, Laura Franco Gregory, an Assistant District Attorney for El Paso County, appeared before Judge Aguilar to obtain default judgments in two asset forfeiture cases.
7. Witnesses reported that during the course of the proceedings, Judge Aguilar raised his voice and shook his finger at Gregory in a condescending and berating manner.
8. Gregory then stated, “Judge, please stop berating me in open court.” According to Gregory and other witnesses, the courtroom was full of inmates, defendants, and attorneys.
9. Judge Aguilar then ordered Gregory to sit down. When she was unable to sit down fast enough, the judge, visibly upset, yelled at her to sit down a second time.
10. Finally, Judge Aguilar “lost control,” yelling at Gregory to see him in chambers. Gregory, along with the judge’s bailiff, followed Judge Aguilar into his chambers where, according to Gregory, Judge Aguilar continued to berate and curse at her, telling Gregory that she “had better damn well show respect” for him and his court.
11. According to Gregory, Judge Aguilar was so out of control and full of rage that she believed the judge was going to hit her.

RELEVANT STANDARD

Canon 3B(4) of the Texas Code of Judicial Conduct states, in pertinent part: “A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity. . . .”

CONCLUSIONS

The Commission concludes from the facts and evidence presented that Judge Aguilar’s persistent use of derogatory, demeaning, and sexual remarks toward women, including female judges, prosecutors, probation officers, and others with whom the judge deals in his official capacity, and, in particular, his abusive treatment of Laura Franco Gregory before a courtroom full of people, lacked the patience, dignity and courtesy required of a judicial officer, in violation of Canon 3B(4) of the Texas Code of Judicial Conduct. It is apparent from the description of this event that Judge Aguilar’s principal motivation in berating Ms. Gregory was the need to exert his power as a judge over the attorney by means of intimidation and fear. In condemning Judge Aguilar’s conduct toward Ms. Gregory, the Commission is mindful of the historic role that the judiciary has played in mentoring lawyers in order to foster the continually high ethical standards of the legal profession. In this regard, Judge Aguilar’s course of conduct has undermined

that goal, as well as the public's confidence in the integrity, impartiality, and independence of the Texas judiciary.

In condemnation of the conduct described above that violated Canon 3B(4) of the Texas Code of Judicial Conduct, it is the Commission's decision to issue a **PUBLIC REPRIMAND** to the Honorable Luis Aguilar, Judge of the 120th District Court, El Paso, El Paso County, Texas.

Pursuant to the authority contained in Article V, Section 1-a(8) of the Texas Constitution, it is ordered that the conduct described above is made the subject of a **PUBLIC REPRIMAND** by the State Commission on Judicial Conduct.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this ____21____ day of December, 2004.

ORIGINAL SIGNED BY

Honorable James A. Hall, Chair
State Commission on Judicial Conduct



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

CJC No. 04-0487-JP

**PUBLIC WARNING
AND
ORDER OF ADDITIONAL EDUCATION**

**HONORABLE OSCAR TULLOS
JUSTICE OF THE PEACE, PRECINCT 2, PLACE 2
BROWNSVILLE, CAMERON COUNTY, TEXAS**

During its meeting in Austin, Texas, on December 8-10, 2004, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable Oscar Tullos, Justice of the Peace, Precinct 2, Place 2, Brownsville, Cameron County, Texas. Judge Tullos was advised by letter of the Commission's concerns and provided a written response. Although invited to testify before the Commission on December 9, 2004, Judge Tullos declined to do so. After considering the evidence, the State Commission on Judicial Conduct entered the following Findings and Conclusions:

FINDINGS OF FACT

1. At all times relevant hereto, the Honorable Oscar Tullos was Justice of the Peace, for Precinct 2, Place 2, in Brownsville, Cameron County, Texas.
2. On or about April 12, 2002, Judge Tullos accepted a criminal complaint for issuance of a bad check filed by Filiberto Bermea against Manuel Giron. The criminal complaint arose from an action to collect on a check that had been written to Bermea by Giron, which was returned for insufficient funds.
3. On that same day, Judge Tullos sent a letter to Giron notifying him that a criminal charge of Issuance of a Bad Check had been filed against him, and that Giron had ten (10) days to appear in court to settle the matter.

4. Judge Tullos then mailed notice of the trial setting to both Bermea and Giron. The *Order Setting Trial* contained the style of a civil lawsuit.
5. Prior to the original trial date, Judge Tullos granted a motion for continuance filed by Bermea, the complaining witness in the case.
6. On or about September 16, 2002, Judge Tullos heard testimony in the case.
7. Notations entered by Judge Tullos in the court's file at the time of the trial indicated that a judgment had been entered for Bermea in the amount of \$614.82.
8. The actual written judgment issued on September 16, 2002, reflected that Giron was found guilty of the Class "C" misdemeanor offense and was ordered to pay restitution in the amount of \$614.82. The restitution amount included a fine and court costs of \$255.00.
9. Although the case was criminal in nature, no prosecutor appeared to present the State's case against Giron.
10. According to Judge Tullos, the confusion resulting from various notices being sent from the court that misled Giron into believing the case against him was civil, rather than criminal, in nature was due to a former clerk's error.
11. The judge also stated that it was his belief that the term "restitution" meant all monies owed to the court.
12. Although Judge Tullos indicated that he was familiar with the law that requires all criminal cases to be prosecuted by an assistant District or County Attorney, because no prosecutor appeared on the day of trial to present the case against Giron, "in the interest of justice" and "with the consent of both parties," the judge went forward with the case and received testimony from Giron regarding the criminal charge.
13. Judge Tullos was sanctioned in 2003 for, among other things, improperly converting a criminal complaint into a civil lawsuit.

RELEVANT STANDARDS

1. Canon 2A of the Texas Code of Judicial Conduct states, in pertinent part: "A judge shall comply with the law. . .."
2. Canon 3B(2) of the Texas Code of Judicial Conduct states, in pertinent part, "A judge shall maintain professional competence in [the law]."
3. Article 45.101(a) of the Texas Code of Criminal Procedure requires that all prosecutions in the justice court be conducted by the county or district attorney or a deputy county or district attorney.
4. Article 45.031 of the Texas Code of Criminal Procedure states that if a prosecutor is not present when the case is called for trial, the judge may postpone the trial; appoint an attorney *pro tem* to represent the state; or proceed to trial.

5. Article 45.032 of the Texas Code of Criminal Procedure requires the judge to enter a directed verdict of “not guilty” for the defendant if the prosecutor fails to prove a *prima facie* case of the offense alleged in the complaint.

CONCLUSIONS

The Commission concludes based on the facts and evidence before it that Judge Tullos failed to comply with the law and demonstrated a lack of professional competence in the law by proceeding to trial in a criminal case in the absence of a prosecutor and by finding the defendant guilty when no *prima facie* proof was presented to the court by a prosecutor. The Commission further concludes that the judge lacked sufficient understanding of the basic differences between civil and criminal proceedings. Because Judge Tullos had previously been sanctioned for similar conduct, his conduct in this case constituted persistent violations of Canons 2A and 3B((2) of the Texas Code of Judicial Conduct.

In condemnation of the conduct described above that violated Canons 2A and 3B(2) of the Texas Code of Judicial Conduct, it is the Commission’s decision to issue a **PUBLIC WARNING AND ORDER OF ADDITIONAL EDUCATION** to the Honorable Oscar Tullos, Justice of the Peace, Precinct 2, Place 2, Brownsville, Cameron County, Texas.

Pursuant to this Order, Judge Tullos must obtain **eight (8) hours** of instruction with a mentor in addition to his required judicial education. In particular, the Commission desires that Judge Tullos receive this additional education in the areas of civil and criminal procedure, with particular attention given to recognizing the basic differences between a criminal and a civil complaint, criminal and civil process, and criminal and civil trial procedures.

Judge Tullos shall complete the additional **eight (8) hours** of instruction recited above within **sixty (60) days** from the date of written notification of the assignment of a mentor. It is Judge Tullos’ responsibility to contact the assigned mentor and schedule the additional education.

Upon the completion of the **eight (8) hours** of instruction described herein, Judge Tullos shall sign and return the Respondent Judge Survey indicating compliance with this Order. Failure to complete, or report the completion of, the required additional education in a timely manner may result in further Commission action.

Pursuant to the authority contained in Article V, Section 1-a(8) of the Texas Constitution, it is ordered that the conduct described above be made the subject of a **PUBLIC WARNING AND ORDER OF ADDITIONAL EDUCATION** by the State Commission on Judicial Conduct.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state’s judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this ____21____ day of December, 2004.

ORIGINAL SIGNED BY

Honorable James A. Hall, Chair
State Commission on Judicial Conduct



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

CJC No. 04-0427-CC

PUBLIC ADMONITION

**HONORABLE E. MASON MARTIN II
COUNTY COURT AT LAW NO. 3
CONROE, MONTGOMERY COUNTY, TEXAS**

During its meeting in Austin, Texas, on December 8-10, 2004, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable E. Mason Martin II, County Court at Law No. 3, Conroe, Montgomery County, Texas. Judge Martin was advised by letter of the Commission's concerns and provided written responses. Judge Martin appeared with counsel before the Commission on December 10, 2004, and gave testimony. After considering the evidence before it, the Commission entered the following Findings and Conclusions:

FINDINGS OF FACT

1. At all times relevant hereto, the Honorable E. Mason Martin II was judge of County Court at Law No. 3 in Conroe, Montgomery County, Texas.
2. On or about December 28, 2003, while performing judicial duties at the Montgomery County jail, Judge Martin engaged in a dispute with several deputies over certain security measures that had been put in place by jail administrators.
3. The disputed jail policies involved the separation of male and female inmates during probable cause hearings and having a deputy posted outside the hearing room, observing the proceedings through the window, and ready to act in case of emergency.
4. Frustrated by the new policies, Judge Martin started to exit the hearing room, stating to the deputies present in the room, "Well, you go find your own damn judge for probable cause," or words to that effect.

5. After the prisoners were assembled in the hearing room, one of the jailers assumed his post outside the door. As the deputy looked through the window into the room, Judge Martin loudly said, "Get away from the window," and "Get your ugly face out of my sight," or words to that effect.
6. Judge Martin then told another deputy that if the jailer "can't follow orders, I will have him locked up in his own jail," or words to that effect.

RELEVANT STANDARD

Canon 3B(4) of the Texas Code of Judicial Conduct states, in pertinent part: "A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity . . ."

CONCLUSION

The Commission concludes from the facts and evidence presented that by arguing with the deputies, Judge Martin failed to demonstrate the patience, dignity and courtesy required of a judicial official, in violation of Canon 3B(4) of the Texas Code of Judicial Conduct. The judge's disruptive and demeaning conduct toward the jail staff, some of which was observed by prisoners, did little to promote public confidence in the integrity, impartiality, and independence of the Texas judiciary.

In condemnation of the conduct described above that violated Canon 3B(4) of the Texas Code of Judicial Conduct, it is the Commission's decision to issue a **PUBLIC ADMONITION** to the Honorable E. Mason Martin II, County Court at Law No. 3, Conroe, Montgomery County, Texas.

Pursuant to the authority contained in Article V, Section 1-a(8) of the Texas Constitution, it is ordered that the conduct described above is made the subject of a **PUBLIC ADMONITION** by the State Commission on Judicial Conduct.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this ____21____ day of December, 2004.

ORIGINAL SIGNED BY

Honorable James A. Hall, Chair
State Commission on Judicial Conduct



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

CJC No. 04-0466-CC

PUBLIC WARNING

**HONORABLE E. MASON MARTIN II
COUNTY COURT AT LAW NO. 3
CONROE, MONTGOMERY COUNTY, TEXAS**

During its meeting in Austin, Texas, on December 8-10, 2004, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable E. Mason Martin II, County Court at Law No. 3, Conroe, Montgomery County, Texas. Judge Martin was advised by letter of the Commission's concerns and provided written responses. Judge Martin appeared with counsel before the Commission on December 10, 2004, and gave testimony. After considering the evidence before it, the Commission entered the following Findings and Conclusions:

FINDINGS OF FACT

1. At all times relevant hereto, the Honorable E. Mason Martin II was judge of County Court at Law No. 3 in Conroe, Montgomery County, Texas.
2. On January 12, 2004, Judge Martin conducted jury selection in Cause Number 03-185535, styled *State of Texas v. Alexander*, a misdemeanor marijuana possession case. Although the defendant had already entered a plea of guilty, the jury was to assess punishment.
3. After a member of the panel of prospective jurors (the "venireman" herein) indicated that he thought the potential punishment for marijuana possession was too harsh, the venireman was brought before the bench to discuss his opinions with Judge Martin, the prosecutor, and defense counsel, and to determine whether the venireman should be excused for cause from serving on the jury.

4. Upon the venireman's arrival before the bench, Judge Martin remarked, "The next time you ever come to court, if you look like you do when you come here I'm going to put you in jail."
5. The judge continued to berate the venireman by stating, "So you know, if I sent you to jail today because you came here looking contentious, I'd have you tested." The venireman responded, "That's fine, sir. I'll go take one. I've been at my job four years and we take a drug test every so often." Judge Martin retorted, "Good. I am glad you are not a user. You ought to quit looking like one."
6. When the venireman attempted to walk away from the bench, Judge Martin made the following comments, "I didn't excuse you. . . Stand there straight and just drop your hands to your side and act like you know what you are doing here. . . Because you don't look like it, just act like it."
7. In his appearance before the Commission, Judge Martin testified that his conduct and statements to the venireman were due to his perception that the man was a "street person."

RELEVANT STANDARDS

1. Canon 3B(4) of the Texas Code of Judicial Conduct states, in pertinent part: "A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity . . ."
2. Canon 3B(6) of the Texas Code of Judicial Conduct states, in pertinent part: "A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based on . . . socioeconomic status . . ."

CONCLUSION

The Commission concludes from the facts and evidence presented that the manner in which Judge Martin berated the venireman demonstrated a lack of the patience, dignity and courtesy required of a judicial officer, in violation of Canon 3B(4) of the Texas Code of Judicial Conduct. The judge's conduct before this panel of prospective jurors, all of whom deserve to be applauded for responding to their jury summons and for their willingness to serve as jurors, did little to promote public confidence in the integrity, impartiality, and independence of the Texas judiciary. The Commission further concludes that by Judge Martin's words or conduct, he manifested a bias or prejudice against the venireman on the basis of the man's perceived socioeconomic status as a "street person," in violation of Canon 3B(6) of the Texas Code of Judicial Conduct.

In condemnation of the conduct described above that violated Canons 3B(4) and 3B(6) of the Texas Code of Judicial Conduct, it is the Commission's decision to issue a **PUBLIC WARNING** to the Honorable E. Mason Martin II, County Court at Law No. 3, Conroe, Montgomery County, Texas.

Pursuant to the authority contained in Article V, Section 1-a(8) of the Texas Constitution, it is ordered that the conduct described above is made the subject of a **PUBLIC WARNING** by the State Commission on Judicial Conduct.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this ____21____ day of December, 2004.

ORIGINAL SIGNED BY

Honorable James A. Hall, Chair
State Commission on Judicial Conduct



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

CJC No. 04-0767-JP

PUBLIC WARNING

**HONORABLE JIM RICHARD
JUSTICE OF THE PEACE, PRECINCT 4
SUGAR LAND, FORT BEND COUNTY, TEXAS**

During its regularly scheduled meeting on February 9-10, 2005, the State Commission on Judicial Conduct concluded a review of the allegations against the Honorable Jim Richard, Justice of the Peace for Precinct 4 in Sugar Land, Fort Bend County, Texas. Judge Richard was advised by letter of the Commission's concerns and provided a written response. Judge Richard appeared before the Commission on February 10, 2005, and gave testimony. After considering the evidence before it, the Commission entered the following Findings and Conclusion:

FINDINGS OF FACT

1. At all times relevant hereto, the Honorable Jim Richard was Justice of the Peace for Precinct 4 in Sugar Land, Fort Bend County, Texas.
2. On or about January 10, 2003, Peter Walters, who was 18 years old at the time, received a speeding citation in Fort Bend County.
3. On or about February 3, 2003, Judge Richard signed an order granting Peter deferred adjudication for a period of six (6) months.
4. On or about August 20, 2003, Peter provided the court with an *Affidavit of Compliance* ("Affidavit"), which recited that he had committed no offense against the state during the probationary period.

5. Although Judge Richard testified in his written responses to the Commission's inquiry that Peter's case was dismissed upon the court's receipt of the *Affidavit*, court records do not reflect this action.
6. In or around early November 2003, Peter's father, Charles "Ric" Walters, contacted Judge Richard to discuss Peter's case.
7. Although Judge Richard had previously testified in his written responses that Peter's case had been dismissed prior to his initial meeting with Ric Walters, Judge Richard later testified before the Commission that he had assumed that Peter's case was still pending when Ric Walters initially contacted him.
8. According to Judge Richard's written and oral testimony, he agreed to meet and discuss Peter's case with Ric Walters after consulting the Texas Code of Judicial Conduct and determining that Canon 6C(2) authorized communications concerning a determination of where jurisdiction of an impending claim or dispute may lie, or whether a claim or dispute might more appropriately be resolved in some other judicial or non-judicial forum.
9. In his meeting with Ric Walters, Judge Richard was advised that Peter may have "lied" in the *Affidavit*. Specifically, Ric Walters informed Judge Richard that Peter had received a speeding citation in late July 2003, but had kept the second citation a secret.
10. During the course of the conversation, Ric Walters told Judge Richard that he would like for Peter to enlist in the military.
11. According to his written testimony regarding this conversation, Judge Richard understood that the court had no jurisdiction in Peter's case because the deferred adjudication period had ended. Further, according to Judge Richard, "even if the court did have jurisdiction, military service is not anything the court can order." Judge Richard explained this fact to Ric Walters.
12. On or about November 13, 2003, based solely on Ric Walters' allegation that Peter had lied in the *Affidavit*, Judge Richard issued a summons ordering Peter to appear before him on December 5, 2003.
13. At the December 5th hearing, with a bailiff present, Judge Richard advised Peter that he might face criminal prosecution for a felony perjury offense for allegedly lying in the *Affidavit* he had filed with the court. Judge Richard proceeded to describe in graphic detail what could happen to Peter if perjury charges were filed against him.
14. There was no prosecutor present at the December 5th hearing.
15. According to a sworn statement from Ric Walters provided to the Commission, Judge Richard "suggested" that Peter be drug tested, complete twenty-four (24) hours of community service, complete his high school education, and return to the court on March 1, 2004, for a compliance hearing.

16. According to Judge Richard's written testimony, after Judge Richard asked Peter and his father "what they thought should be appropriate," it was Ric Walters who suggested that in lieu of having the perjury complaint referred to the District Attorney's Office, Peter should perform community service, submit to drug screening, and enlist in the Coast Guard.
17. At the conclusion of the December 5th hearing, with the threat of criminal prosecution and possible incarceration hanging over his head, Peter "agreed" to complete twenty-four (24) hours of community service, submit to a drug screening, and obtain his high school diploma. Peter obtained official court forms to record the performance of these items and filed these forms with the court upon their completion.
18. Prior to the March 1st compliance hearing, Ric Walters contacted Judge Richard to discuss Peter's progress, Judge Richard's decision regarding Peter's punishment, and the possibility that Judge Richard might intercede on the Walters' behalf to have Peter enlist in the Coast Guard. Specifically, Ric Walters told Judge Richard "that a suggestion from the bench might be the motivation [Peter] needed to [join the military]."
19. At the March 1st hearing, Judge Richard told Peter "that it might be in his best interest if he were to join the Coast Guard for a period of four years." Judge Richard then reminded Peter that "aggravated perjury has a statute of limitations, and that [Judge Richard] had the option of referring this matter to the District Attorney's Office any time during that period should events prove it necessary."
20. Based on Judge Richard's and Ric Walters' statements to him at and prior to the March 1st compliance hearing, Peter left Judge Richard's courtroom believing he had been ordered to enter military service for a period of four (4) years or face criminal prosecution for aggravated perjury.

RELEVANT STANDARDS

1. Canon 2A of the Texas Code of Judicial Conduct states, in pertinent part: "A judge shall comply with the law"
2. Canon 2B of the Texas Code of Judicial Conduct states, in pertinent part: "A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge."

CONCLUSIONS

The Commission concludes from the facts and evidence before it that Judge Richard failed to comply with the law in violation of Canon 2A of the Texas Code of Judicial Conduct when he summoned Peter Walters to appear in court on a case that Judge Richard believed had been dismissed months earlier and in which the judge knew, or should have known, he no longer had jurisdiction to act. Judge Richard knew or should have known that he had no authority to order Peter to comply with additional conditions

of deferred adjudication in this case, or to use the threat of criminal prosecution to ensure Peter's compliance with those conditions. The Commission further concludes that by allowing his office and position to be used to promote and advance Ric Walters' private interests – that Peter be punished for allegedly lying in the *Affidavit*, but strong-armed into joining the military to avoid criminal prosecution - Judge Richard conveyed to Peter, and allowed Ric Walters to convey, the impression that Ric Walters was in a special position to influence the judge, in violation of Canon 2B of the Texas Code of Judicial Conduct.

In making these findings and reaching this conclusion, the Commission notes that it found Judge Richard's testimony before it to be inconsistent with other evidence presented at the hearing. Moreover, the Commission rejects Judge Richard's arguments that (a) Canon 6C(2) gave him the legal authority to act in this case, and (b) Ric Walters' interest in seeing his son punished for allegedly lying in the *Affidavit* was a public, rather than a private, interest.

In condemnation of the conduct described above that violated Canons 2A and 2B of the Texas Code of Judicial Conduct, it is the Commission's decision to issue a **PUBLIC WARNING** to the Honorable Jim Richard, Justice of the Peace for Precinct 4 in Sugar Land, Fort Bend County, Texas.

Pursuant to the authority contained in Article V, Section 1–a(8) of the Texas Constitution, it is ordered that the actions described above be made the subject of a **PUBLIC WARNING** by the Commission.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this the ____21st____ day of February, 2005.

ORIGINAL SIGNED BY

Honorable James A. Hall, Chair
State Commission on Judicial Conduct



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

CJC No. 05-0201-DI

PUBLIC ADMONITION

**HONORABLE FAITH JOHNSON
363RD JUDICIAL DISTRICT COURT
DALLAS, DALLAS COUNTY, TEXAS**

During its regularly scheduled meeting on April 13-15, 2005, the State Commission on Judicial Conduct concluded a review of the allegations against the Honorable Faith Johnson, Judge of the 363rd Judicial District Court, in Dallas, Dallas County, Texas. Judge Johnson was advised by letter of the Commission's concerns and provided a written response. Judge Johnson appeared with counsel before the Commission on April 15, 2005, and gave testimony. After considering the evidence before it, the Commission entered the following Findings and Conclusion:

FINDINGS OF FACT

1. At all times relevant hereto, the Honorable Faith Johnson was Judge of the 363rd District Court in Dallas, Dallas County, Texas.
2. In November 2003, Billy Wayne Williams (hereinafter referred to as "Williams") was convicted by a jury of aggravated assault with a deadly weapon.
3. After being placed on a personal recognizance (PR) bond when his attorney withdrew from the case, Williams fled the jurisdiction of the court before he could be sentenced.
4. Upon learning that Williams had fled, Judge Johnson sentenced him *in absentia* to life in prison.

5. Approximately one year later, Williams was recaptured.
6. When Judge Johnson learned that Williams had been apprehended, she told members of her staff that she was going to pick up a cake and some ice cream to celebrate his return. Her court reporter volunteered to bring streamers and balloons.
7. On October 25, 2004, Judge Johnson's staff decorated her courtroom with streamers and balloons, as the judge laughed and gave instructions on where to place the decorations. A cake, decorated with the words, "Welcome Home Billy Ray Williams," was displayed on a table in the courtroom.
8. A local Dallas news reporter was also present, at Judge Johnson's request, to film the party preparations and Williams' expression as he entered the courtroom and witnessed the celebration.
9. As Williams approached the bench, Judge Johnson told him, "You just made my day when I heard you had finally come home. We're so excited to see you, we're throwing a party for you."
10. Williams was then told by the judge that when he fled the court's jurisdiction mid-trial, she had sentenced him in his absence to life in prison. Williams was then escorted out of the courtroom, stating to a reporter, "It seems like everyone wants to have a party, and it's fun for you people, but not for me."
11. Approximately forty minutes later, after the courtroom had been cleared of the party decorations, Williams was brought before Judge Johnson again for formal sentencing.
12. Judge Johnson's courtroom celebration received world-wide media attention, with the judge receiving both praise and criticism for her actions.
13. In her testimony before the Commission, Judge Johnson stated that she regretted having thrown the party and apologized if her actions offended anyone.

RELEVANT STANDARDS

1. Article V, Section 1-a(6)A of the Texas Constitution provides that any Texas judge may be disciplined for conduct that casts public discredit upon the judiciary.
2. Canon 3B(3) of the Texas Code of Judicial Conduct states, in pertinent part: "A judge shall require order and decorum in proceedings before the judge."

CONCLUSIONS

Based on the facts and evidence before it, the Commission concludes that Judge Johnson failed to maintain order and decorum in the courtroom, in violation of Canon 3B(3) of the Texas Code of Judicial Conduct, when she celebrated Billy Ray Williams' apprehension with balloons, streamers, cake and ice cream, and when she promoted the

event by inviting the media to capture Williams' bewildered expression as he entered the courtroom and observed the celebration. The judge's actions in this case were willful and cast public discredit upon the judiciary, in violation of Article V, Section 1-a(6)A of the Texas Constitution.

In condemnation of the conduct described above that violated Article V, Section 1-a(6)A of the Texas Constitution and Canon 3B(3) of the Texas Code of Judicial Conduct, it is the Commission's decision to issue a **PUBLIC ADMONITION** to the Honorable Faith Johnson, Judge of the 363rd District Court, in Dallas, Dallas County, Texas.

Pursuant to the authority contained in Article V, Section 1-a(8) of the Texas Constitution, it is ordered that the actions described above be made the subject of a **PUBLIC ADMONITION** by the Commission.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this the ____29TH____day of April, 2005.

ORIGINAL SIGNED BY

Honorable James A. Hall, Chair
State Commission on Judicial Conduct



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

CJC Nos. 04-1181-RT AND 05-0256-RT

PUBLIC REPRIMAND

**HONORABLE H. LON HARPER
FORMER JUDGE
HOUSTON, HARRIS COUNTY, TEXAS**

During its meeting in Austin, Texas, on April 13-15, 2005, the State Commission on Judicial Conduct concluded a review of the allegations against the Honorable H. Lon Harper, Former Judge, Houston, Harris County, Texas. Judge Harper was advised by letter of the Commission's concerns, but failed to provide a written response. Judge Harper was invited to appear before the Commission on June 10, 2004, and on August 12, 2004; however, he failed to appear. Again, on February 16, 2005, Judge Harper was advised by letter of the Commission's additional concerns, but failed to provide a written response. After considering the evidence before it, the Commission entered the following Findings and Conclusions.

FINDINGS OF FACT

1. At all times relevant hereto, the Honorable H. Lon Harper was a Former Judge eligible to sit by assignment.
2. On or about December 18, 2003, the Court of Criminal Appeals reported that Judge Harper failed to obtain the required judicial education for fiscal year 2003 (September 1, 2002 through August 31, 2003).
3. On or about January 12, 2004, the Commission received the affidavit of Mari Kay Bickett, Executive Director for the Texas Center for the Judiciary, in which she stated that during fiscal year 2003, Judge Harper completed 9.75 hours out of the 16 hours of judicial education required of a district court judge. Judge Harper was not granted a waiver from this requirement.

4. On February 26, 2004, Judge Harper was asked to respond to the allegation that he had failed to obtain the required judicial education for fiscal year 2003. Judge Harper failed to respond to the Commission's inquiry.
5. On April 15, 2004, Judge Harper was invited to appear before the Commission on June 10, 2004, in order to provide additional information concerning the complaint.
6. On June 9, 2004, Judge Harper notified the Commission that he would not be appearing at the June 10, 2004 hearing, but that he was interested in resolving the complaint through a Voluntary Agreement to Resign in Lieu of Disciplinary Action.
7. On June 14, 2004, Judge Harper was asked to execute a resignation agreement, but failed to do so.
8. On July 7, 2004, Judge Harper was invited to appear before the Commission on August 12, 2004, in order to provide additional information concerning the complaint. He failed to appear.
9. At the conclusion of the August 12, 2004 hearing, the Commission issued a Private Order of Additional Education ordering Judge Harper to complete the remaining 6.25 hours of judicial education for fiscal year 2003, in addition to his required education for fiscal years 2004 and 2005. Judge Harper failed to comply with the Commission's order.
10. On or about November 12, 2004, the Court of Criminal Appeals reported that Judge Harper failed to obtain the required judicial education for fiscal year 2004 (September 1, 2003 through August 31, 2004).
11. On or about January 18, 2005, the Commission received the affidavit of Mari Kay Bickett, Executive Director for the Texas Center for the Judiciary, in which she stated that during fiscal year 2004, Judge Harper completed none of the 16 hours of judicial education required of a district court judge. Judge Harper was not granted a waiver from this requirement.
12. On October 2, 2004, January 4, 2005, and February 16, 2005, Judge Harper was asked to respond to allegations that he failed to cooperate with the Commission and failed to obtain the required judicial education for fiscal year 2004. Judge Harper failed to respond to the Commission's inquiries.
13. According to the records of the Presiding Judge of the Second Administrative Judicial Region, Judge Harper has not notified that office that he no longer wishes to serve as a visiting judge or that he wishes to be removed from the list of judges who are eligible to sit by assignment.

RELEVANT STANDARDS

1. Article V, Section 1-a(6)A of the Texas Constitution provides that any Texas judge may be disciplined for willful or persistent conduct that is clearly inconsistent with the proper performance of his duties.

2. Section 33.001(b)(5) of the Texas Government Code provides that a judge's failure to cooperate with the Commission constitutes "willful or persistent conduct that is clearly inconsistent with the proper performance of a judge's duties."
3. Canon 2A of the Texas Code of Judicial Conduct states, in pertinent part: "A judge shall comply with the law. . . ."
4. Canon 3B(2) of the Texas Code of Judicial Conduct states, in pertinent part: "A judge shall maintain professional competence in [the law]."

CONCLUSION

The Commission concludes from the facts and evidence presented that by failing to complete his judicial education requirements for fiscal years 2003 and 2004, Judge Harper failed to comply with the law and failed to maintain professional competence in the law, in violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct. The Commission further concludes that Judge Harper willfully and persistently failed to cooperate with the Commission in its efforts to investigate the allegations against him. The judge's actions in these matters were inconsistent with the proper performance of his duties, in violation of Article V, Section 1-a(6)A of the Texas Constitution.

In condemnation of the above-recited conduct that violated Article V, Section 1-a(6)A of the Texas Constitution and Canons 2A and 3B(2) of the Texas Code of Judicial Conduct, it is the Commission's decision to issue a **PUBLIC REPRIMAND** to the Honorable H. Lon Harper, Former Judge, Houston, Harris County, Texas.

Pursuant to the authority contained in Article V, Section 1-a(8) of the Texas Constitution, it is ordered that the actions described above be made the subject of a **PUBLIC REPRIMAND** by the Commission.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this the __29TH__ day of April, 2005.

ORIGINAL SIGNED BY

Honorable James A. Hall, Chair
State Commission on Judicial Conduct



**BEFORE THE STATE COMMISSION
ON JUDICIAL CONDUCT**

CJC No. 05-0161-JP

PUBLIC REPRIMAND

**HONORABLE OSCAR TULLOS
JUSTICE OF THE PEACE, PRECINCT 2, PLACE 2
BROWNSVILLE, CAMERON COUNTY, TEXAS**

During its meeting in Austin, Texas, on April 13-15, 2005, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable Oscar Tullos, Justice of the Peace, Precinct 2, Place 2, Brownsville, Cameron County, Texas. Judge Tullos was advised by letter of the Commission's concerns and provided a written response. Although invited to testify before the Commission on February 10, 2005, Judge Tullos declined to do so. After considering the evidence, the State Commission on Judicial Conduct entered the following Findings and Conclusions:

FINDINGS OF FACT

1. At all times relevant hereto, the Honorable Oscar Tullos was Justice of the Peace for Precinct 2, Place 2, in Brownsville, Cameron County, Texas.
2. On or about May 25, 2004, Patricia Thrasher (hereinafter referred to as "Thrasher") filed an original petition in Judge Tullos' small claims court requesting damages of \$5,057.00 against defendant Juan Gutierrez and Prestige Body Shop (collectively referred to as "Gutierrez").
3. In preparing her petition, Thrasher relied on written instructions from Judge Tullos' court directing plaintiffs to include court costs and fees in their total claim for damages.

4. On or about July 7, 2004, Judge Tullos entered a default judgment in the amount of \$2,431.25 in favor of Thrasher after Gutierrez failed to answer the lawsuit or appear for trial.
5. On or about July 20, 2004, at Thrasher's request, Judge Tullos issued a Writ of Abstract and a Writ of Execution to enforce the default judgment.
6. On or about August 24, 2004, an attorney for Gutierrez filed a Motion to Dismiss for Lack of Jurisdiction arguing that the amount of damages requested by Thrasher in her original petition was \$57.00 over the \$5,000.00 jurisdictional limit of the court.
7. In his written responses to the Commission's inquiry, Judge Tullos testified that he initially advised the attorney that the motion was denied because the \$57.00 in excess of the \$5,000.00 jurisdictional limit of the court constituted court costs, which were allowed to be included in Thrasher's petition by law.
8. After the attorney was allowed to present his arguments to the court in an "informal hearing," Judge Tullos granted the Motion to Dismiss.
9. No notice of the "informal hearing" was provided to Thrasher, who later received a copy of the court's order dismissing her case in the mail.
10. On or about September 3, 2004, after Thrasher's attorney filed a Motion to Set Aside Order to Dismiss, Judge Tullos held another "informal hearing" with both attorneys present. At the conclusion of this hearing, the attorneys agreed to dismiss Thrasher's case based on a technical error in the original petition, which did not specifically identify \$57.00 of the total amount of damages as court costs.
11. Judge Tullos has been publicly sanctioned in the past for his improper handling of another small claims matter. As a result of that sanction, Judge Tullos obtained eight (8) hours of additional judicial education, with a mentor judge, in the area of the handling of small claims cases, from filing to completion and collection of judgments.

RELEVANT STANDARDS

1. Article V, Section 1-a(6)A of the Texas Constitution provides that any Texas judge may be disciplined for willful or persistent conduct that is clearly inconsistent with the proper performance of his duties.
2. Canon 2A of the Texas Code of Judicial Conduct states, in pertinent part: "A judge shall comply with the law . . ."
3. Canon 3B(2) of the Texas Code of Judicial Conduct states, in pertinent part: "A judge shall maintain professional competence in [the law]."

CONCLUSIONS

The Commission concludes based on the facts and evidence before it that Judge Tullos failed to comply with the law and demonstrated a lack of professional competence in the law, in violation of Canons 2A and 3B(2) of the Texas Code of Judicial Conduct, by granting Gutierrez' untimely Motion to Dismiss, without proper notice and hearing to

Thrasher. The Commission notes that dismissing Thrasher's case forty-eight (48) days after a default judgment had been granted was improper even if the court arguably lacked jurisdiction over the case because the amount in controversy, as originally pled by Thrasher, exceeded the court's jurisdiction by \$57.00. In such an instance, if the judgment were in fact void due to a lack of jurisdiction, the proper remedy would have been to set aside the default judgment. Because Judge Tullos has previously been sanctioned for similar misconduct, his actions in this case constituted persistent conduct that was inconsistent with the proper performance of his duties, in violation of Article V, Section 1-a(6)A of the Texas Constitution.

In condemnation of the conduct described above that violated Article V, Section 1-a(6)A of the Texas Constitution, and Canons 2A and 3B(2) of the Texas Code of Judicial Conduct, it is the Commission's decision to issue a **PUBLIC REPRIMAND** to the Honorable Oscar Tullos, Justice of the Peace, Precinct 2, Place 2, Brownsville, Cameron County, Texas.

Pursuant to the authority contained in Article V, Section 1-a(8) of the Texas Constitution, it is ordered that the conduct described above be made the subject of a **PUBLIC REPRIMAND** by the State Commission on Judicial Conduct.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this ____29TH____ day of April, 2005.

ORIGINAL SIGNED BY

Honorable James A. Hall, Chair
State Commission on Judicial Conduct



**BEFORE THE
STATE COMMISSION ON JUDICIAL CONDUCT**

CJC No. 04-0958-DI

PUBLIC REPRIMAND

**HONORABLE MARY ANNE BRAMBLETT
41ST JUDICIAL DISTRICT COURT
EL PASO, EL PASO COUNTY, TEXAS**

During its meeting in Austin, Texas, on August 10-11, 2005, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable Mary Anne Bramblett, Judge of the 41st Judicial District Court in El Paso, El Paso County, Texas. Judge Bramblett was advised by letter of the Commission's concerns and provided her written response. Judge Bramblett appeared with counsel before the Commission on June 9, 2005, and gave testimony. After considering the evidence before it, the Commission entered the following Findings and Conclusion:

FINDINGS OF FACT

1. At all times relevant hereto, the Honorable Mary Anne Bramblett was Judge of the 41st Judicial District Court in El Paso, El Paso County, Texas.
2. On or about May 3, 1996, Jose Jesus Zuniga (hereinafter "Zuniga"), a native and citizen of Mexico, was convicted of a felony offense, to-wit: Unlawful Delivery of a Controlled Substance, in *State vs. Jose Jesus Zuniga*, Cause No. 81388-411 (re-numbered as Cause No. 960D01197), in the 41st Impact District Court of El Paso County, Texas, Judge Sam W. Callan, presiding.
3. Zuniga's punishment was assessed at 10 years' confinement, suspended, and he was placed on community supervision for a period of ten years.
4. On or about June 12, 2002, the U. S. Immigration and Naturalization Service charged Zuniga with being subject to removal from the United States based upon his May 3, 1996 felony conviction described above.

5. A critical issue in the removal proceeding was whether Zuniga was eligible for discretionary relief from deportation, or whether his deportation was mandatory under the *Anti-Terrorism and Effective Death Penalty Act* (hereinafter the “AEDPA”), Pub. L. No. 104-132, 110 Stat. 1214 (1996).
6. The effective date of the AEDPA was the date of its enactment, April 24, 1996.
7. The government’s position during the removal proceeding was that Zuniga’s deportation was mandatory because he was convicted after the effective date of the AEDPA.
8. On or about June 9, 2003, while the removal proceedings were still pending, Judge Bramblett signed an *Order for Judgment Nunc Pro Tunc* (hereinafter the “Order”), in which she changed Zuniga’s conviction date from May 3, 1996 to April 22, 1996.
9. Zuniga’s revised date of conviction now pre-dated the effective date of the AEDPA.
10. The Order states that the reason for changing the date was due to a “clerical error” in Zuniga’s original judgment of conviction; however, it is undisputed that the original judgment recited the correct date of conviction.
11. Judge Bramblett signed the Order at the request of Zuniga’s attorney, Vivek Grover. Grover approached the judge in her chambers on June 9, 2003, along with the prosecutor assigned to her court, who indicated he would consent to the action only if the judge agreed to it.
12. In her appearance before the Commission, Judge Bramblett testified that although there was no written motion, Grover explained the reason for his request. Grover also provided the judge with favorable information about Zuniga’s conduct in the period since his conviction, including information regarding his family and work history. Finally, Grover advised her that the immigration judge had previously indicated that he would abide by a state court order backdating Zuniga’s actual conviction date.
13. Based on the information provided to her by Grover, Judge Bramblett formed the opinion that it was in Zuniga’s best interest to be eligible for discretionary relief from deportation.
14. Judge Bramblett further testified that although she knew at the time that Zuniga’s actual conviction date was May 3, 1996, she believed she had authority to change that date if doing so was in Zuniga’s best interest.
15. Judge Bramblett also explained that by signing the Order, it was not her intention to deceive or perpetrate a fraud on the immigration court.
16. Finally, Judge Bramblett opined that her judgment may have been affected by stress. According to the judge, at the time the Order was presented to her, she was caring for her son, who had been disabled following a serious accident and recently sent home to recover. At the same time, the judge was preparing for the selection of a jury in a high-profile capital murder case that was receiving national media attention.
17. On or about September 12, 2003, Zuniga was ordered to be deported to Mexico. In reaching this decision, the immigration judge expressly refused to give legal effect to Judge Bramblett’s Order.

RELEVANT STANDARDS

1. Article V, Section 1-a(6)A of the Texas Constitution provides that any Texas justice or judge may be disciplined for, among other things, willful violation of the Code of Judicial Conduct, or willful or persistent conduct that is clearly inconsistent with the proper performance of his duties.
2. Canon 2A of the Texas Code of Judicial Conduct states, in pertinent part: “A judge shall comply with the law”

CONCLUSION

The Commission concludes from the facts and evidence presented that Judge Bramblett failed to comply with the law, in violation of Canon 2A of the Texas Code of Judicial Conduct, when she signed the Nunc Pro Tunc Order. The Commission further concludes that the judge’s conduct in this instance was willful, as that term has been defined by the courts of this State. Specifically, the Commission concludes that when Judge Bramblett caused a false date to be substituted for the actual date of a criminal defendant’s conviction in an effort to affect that individual’s immigration status, she manifested a specific intent to use the powers of the judicial office to accomplish a purpose which the judge knew or should have known was beyond the legitimate exercise of her authority. See [*In re Thoma*, 873 S.W.2d 477, 489-490](#) (Tex.Rev.Trib. 1994, no appeal).

In reaching this conclusion, the Commission recognizes that Judge Bramblett acted with good intentions as far as trying to assist this defendant; however, as a panel of justices on the 4th Court of Appeals once pointed out, “good intentions are not enough. The law would be chaos unless all judges, . . . , follow the law. . . .” *In re Jones*, 55 S.W.3d 243, 249 (Spec.Ct.Rev. 2000). The Commission further notes that this was an isolated incident inconsistent with this judge’s reputation in the legal community. Finally, the Commission accepts that if Judge Bramblett was under a considerable amount of stress at the time, both at home and at work, these pressures could have caused the judge to exercise poor judgment when the Order was presented to her. Taking these mitigating circumstances into account, the Commission nevertheless concludes that the judge’s conduct compromised the integrity of the judicial system and seriously undermined the public’s trust and confidence in both the judicial office and the legal system as a whole.

In condemnation of the conduct described above that violated Article V, §1a(6)A of the Texas Constitution and Canon 2A of the Texas Code of Judicial Conduct, it is the Commission’s decision to issue a **PUBLIC REPRIMAND** to the Honorable Mary Anne Bramblett, Judge of the 41st Judicial District Court in El Paso, El Paso County, Texas.

Pursuant to the authority contained in Article V, Section 1-a(8) of the Texas Constitution, it is ordered that the conduct described above is made the subject of a **PUBLIC REPRIMAND** by the State Commission on Judicial Conduct.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this __11TH__ day of August, 2005.

ORIGINAL SIGNED BY

Honorable James A. Hall, Chair
State Commission on Judicial Conduct